

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENTS ON BEHALF OF STUDENT,

v.

INGLEWOOD UNIFIED SCHOOL
DISTRICT AND CALIFORNIA
DEPARTMENT OF EDUCATION.

OAH Case No. 2016060319

ORDER DENYING CALIFORNIA
DEPARTMENT OF EDUCATION'S
MOTION TO DISMISS

On May 31, 2016, Parents on behalf of Student filed a Request for Due Process Hearing (complaint) with the Office of Administrative Hearings naming Inglewood Unified School District and California Department of Education. In his complaint, Student alleges that he disagrees with the Inglewood proposed Individualized Education Program in the areas of eligibility, assessments, placement, and supports, which resulted in Student being denied a free appropriate public education.

Student named CDE as a party because of the State's enactment in 2012 of Senate Bill 533 (2011-2012 Reg. Sess.). Senate Bill 533 provided for the State to issue an emergency loan to Inglewood for the purpose of Inglewood avoiding insolvency. The bill also provided that the Superintendent of Public Instruction, under subdivision (b) of Section 41326 of the Education Code, to assume "all legal rights, duties, and powers of the governing board" of Inglewood, and to appoint an administrator to act on the Superintendent's behalf so as to assume control Inglewood and take actions to return it to fiscal solvency. Student contends that CDE, through the appointed administrator, is a proper party to this matter.

On June 6, 2016, CDE filed with OAH a motion to dismiss itself as a party. CDE contends that the complaint fails to state a claim against CDE that is subject to the jurisdiction of OAH. Student filed an opposition to CDE's motion on June 8, 2016. On June 9, 2016, CDE filed with OAH a reply to Student's opposition.

APPLICABLE LAW AND DISCUSSION

Special education due process hearing procedures extend to the parent or guardian, to the student in certain circumstances, and to "the public agency involved in any decisions regarding a pupil." (Ed. Code, § 56501, subd. (a).) A "public agency" is defined as "a

school district, county office of education, special education local plan area . . . or any other public agency . . . providing special education or related services to individuals with exceptional needs.” (Ed. Code, §§ 56500 and 56028.5.)

California law places the primary responsibility for providing special education to eligible children on the local education agency, usually the school district in which the parents of the child reside. (See, e.g., Ed. Code §§ 56300, 56340 [describing LEA responsibilities].) The law also contemplates that, when a parent disputes the educational services provided to the special needs child, the proper respondent to the due process hearing request is the LEA. (See, e.g., Ed. Code, 56502, subd. (d)(2)(B) [LEA’s response to due process complaint].) Only in unusual circumstances does California law deviate from that statutory scheme to require a different entity to provide those services.

Accordingly, OAH may dismiss a matter in its entirety, or one or more claims, where it is evident from the face of the complaint that the alleged issues fall outside of its jurisdiction or pleaded facts which cannot sustain a claim.

Although CDE has general oversight responsibility for special education in California, it is not usually a proper respondent in a due process case under IDEA, because it is not a provider of special education services to children. (Ed. Code § 56501, subd. (a).) An exception to this general rule involves the children in the state schools for the deaf or blind. (Ed. Code, §§ 59002; 59102.)

As stated above, Senate Bill 533 provides that the State provide Inglewood an emergency loan, and that Superintendent appoint an administrator to assume the duties of the district board so as to take actions to return Inglewood to fiscal solvency. Neither Senate Bill 533 nor Section 41326 makes CDE responsible for providing educational services to Inglewood students. In fact, neither changes the existence of Inglewood which operates as a local education agency. The only change that is made is that an administrator be appointed to replace the district board. Inglewood, as an entity, which still assumes all legal responsibilities as it did before. This appointee reports to the Superintendent, the head of CDE. Thus, Inglewood is the responsible entity to provide FAPE and make all decisions involving Student’s education program.¹

Both parties cite to a recent OAH order, *Student v. Inglewood Unified School District* (April 16, 2014) Cal.Offc.Admin.Hrngs. 2014030123 [Order Denying CDE’s Motion to Dismiss] (*Inglewood I*).² In *Inglewood I*, OAH denied an almost identical motion by CDE. The ALJ found that the student “may obtain complete relief in this matter from District

¹ Student does not allege that CDE or the Superintendent has assumed the duties of the Inglewood district.

² Prior administrative decisions have persuasive value in later cases, although they are not binding precedent. (Cal. Code Regs., tit. 5, § 3085.)

without asserting a claim against CDE.” The ALJ ruled “that CDE is **not** an indispensable party.” (Emphasis added.) But, the ALJ denied CDE’s motion in finding that CDE was a proper party in that by appointing an administrator, who reports to the Superintendent, CDE was ultimately responsible for the actions of Inglewood officers and employees.

CDE argues that *Inglewood I* does not apply, but it fails to offer any authority that would indicate that it has been overruled or that CDE is not a proper party. *Inglewood I* involved almost identical facts and the legal arguments advanced by both sides were identical to those raised herein. Thus, CDE’s motion to dismiss is denied.

ORDER

CDE’s Motion to Dismiss is DENIED. The matter will proceed as against Inglewood and CDE, on the previously scheduled dates.

DATE: June 10, 2016

/s/

ROBERT HELFAND
Administrative Law Judge
Office of Administrative Hearings